

EXTENSION OF MARINE WAR RISK INSURANCE

JULY 6, 1965.—Ordered to be printed

Mr. BARTLETT, from the Committee on Commerce, submitted the following

REPORT

[To accompany H.R. 4526]

The Committee on Commerce, to whom was referred the bill (H.R. 4526) to extend the provisions of title XII of the Merchant Marine Act, 1936, relating to war risk insurance, for an additional 5 years, ending September 7, 1970, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE OF THE BILL

The purpose of this bill is to extend for 5 years the existing authority of the Secretary of Commerce to provide war risk insurance for merchant vessels, cargo, and crew.

LEGISLATIVE BACKGROUND

War risk insurance was authorized to be written by the U.S. Government during World War I and World War II. The present authority to write war risk insurance is under title XII of the Merchant Marine Act, 1936, which was added in 1950. The initial authority was extended in 1960 for an additional 5 years to expire on September 7, 1965. H.R. 4526 would extend the authority for an additional 5 years to September 7, 1970.

The bill passed the House of Representatives on May 17. Hearings were held by the Senate Subcommittee on Merchant Marine and Fisheries on May 25, with the Department of Commerce and other departments and agencies concerned supporting the bill. No opposition to the legislation was expressed.

GENERAL DISCUSSION

Conventional commercial insurance on merchant vessels, cargoes, and crews is subject to automatic termination clauses effective upon the outbreak of war. During the time of hostilities, private merchant ships may be needed to transport cargo, both defense and commercial, to any port in the world. The nature of such operation of ocean vessels exposes the ships to risks of war far beyond those of capital equipment of American industries located within the defense perimeter of the United States. The need for the legislation arises out of a recognition that only the Government is in a position to initiate such insurance coverage and has an interest in assuring that the United States possesses a strong and active merchant marine during any time of emergency.

Under the present law, the Secretary of Commerce is required to establish a schedule of insurance premiums to be paid by private operators that will assure that all losses are covered. During the hearings the question was raised as to the overall profit and loss to the Government on war risk insurance from the outbreak of World War II to the present. In response to this question, the Deputy Maritime Administrator wrote the committee on June 14, 1965, as follows:

The underwriting of war risk insurance during World War II, including all types of coverage for which premium was charged, resulted in an excess of premium over losses and direct expenses of approximately \$8 million.

Title XII of the Merchant Marine Act, 1936, was enacted in 1950. Under title XII, income from all war risk insurance programs from inception to March 31, 1965, totals \$3,900,118.51. This amount includes \$764,362.50 for war risk insurance binder fees for hull, protection and indemnity, and second seamen's insurance binders (premium is not assessed until attachment of coverage due to termination of commercial insurance); \$2,850,164.61 for war risk builder's risk insurance premium and fees; and \$285,591.40 for investment income earned as authorized under section 1208(a) of title XII. Total expenses incurred as of March 31, 1965, are \$408,000.94 under the binder program for underwriting agency fees, vessel appraisal fees and minor miscellaneous items. Total net assets in the war risk insurance revolving fund as of March 31, 1965, were \$3,492,117.57 of which \$3,444,320.81 was invested in U.S. securities.

Testimony was given during the hearings on a serious problem relating to the present administration of the program. The Deputy Maritime Administrator testified that discussions were being held with marine underwriters, merchant marine vessel operators, and the Department of the Treasury on the new 1963 proposed automatic termination clause. The proposal has certain clear advantages such as more precise terms regarding when the insurance would come into effect, but raises certain new questions of liability upon the hostile detonation of any nuclear weapon of war. The committee is concerned with this issue and therefore joins the House of Representatives Committee on Merchant Marine and Fisheries in urging an early and equitable settlement of this matter.

COST

The enactment of H.R. 4526 would involve no additional cost to the Government.

AGENCY COMMENTS

The following are comments from the Treasury Department, Comptroller General, Federal Maritime Commission, and the Justice Department:

THE GENERAL COUNSEL OF THE TREASURY,
Washington, D.C., May 28, 1965.

HON. WARREN G. MAGNUSON,
Chairman, Committee on Commerce,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Reference is made to your request for the views of this Department on H.R. 4526, to extend the provisions of title XII of the Merchant Marine Act, 1936, relating to war risk insurance, for an additional 5 years, ending September 7, 1970.

H.R. 4526 would extend for an additional 5 years the authority of the Secretary of Commerce under title XII of the Merchant Marine Act, 1936, as amended, to provide war risk and certain marine liability insurance for protection of vessels, cargoes, and crew life and personal effects, when commercial insurance cannot be obtained on reasonable terms and conditions. Similar Government war risk insurance is provided the aviation industry through June 13, 1966, by title XIII of the Federal Aviation Act (49 U.S.C. 1531-42).

This Department is primarily concerned with the relationship between war risk insurance provided under these programs for the shipping and aircraft industries and the overall emergency planning applicable to these and other important parts of the Nation's financial structure in the event of a nuclear attack upon the United States. Although it may be appropriate for the Federal Government to provide these two industries with protection against conventional war risks, such protection, in the judgment of the Department, would be clearly inappropriate in the event of a nuclear attack upon the United States, in which the magnitude of destruction may be far beyond anything hitherto imagined. Such an approach would be inconsistent with overall emergency planning for nuclear attack because it constitutes a preattack judgment that shipping and aircraft will be of such overwhelming priority that all necessary resources will have to be devoted to their restoration, regardless of other urgent national survival needs.

In planning for emergency mobilization after nuclear attack, the general concept of Government insurance as a means of providing compensation for all private property losses during the time of war has, for some time, been rejected in this country. Both private and governmental studies have led to the conclusion that while such insurance was adopted in World War II and earlier, it is not a feasible means for handling war losses of the magnitude which might be expected in a nuclear conflict. Neither private insurance companies nor the Federal Government realistically can be expected to provide full indemnification for nuclear war losses. The ability of the Federal Government to compensate for civilian war damage will depend both on the extent of destruction and the extent to which surviving resources will have to be directed toward goals of national survival.

Thus, the approach adopted in national emergency planning in recent years has been to treat the postattack problem in terms of loss sharing. As stated in the December 1964 national plan for emergency preparedness, in the event of a general war involving nuclear attack:

"The Federal Government would assure the equitable sharing of war losses throughout the economy to the extent possible not to guarantee individuals against losses but to insure the maintenance of a viable economy."

During periods of international tension and war not involving a nuclear attack upon the United States, the Department believes it appropriate to provide the shipping and aircraft industries with special insurance protection in consideration of their unusual risk exposure and the essential national purposes served by these industries during such periods. In the event of an actual nuclear attack upon the United States, however, the Department believes that the position of the shipping and aircraft industries will not differ essentially from the position of other industries and the protection provided shipping and aircraft should be subject to the same limitations applying to other sectors of the economy under the national plan for the equitable sharing of war losses. A preattack commitment to indemnification for the shipping and aircraft industries after a nuclear attack would be contrary to national preparedness policy established in 1960 in the national plan for civil defense and defense mobilization and reaffirmed in the December 1964 national plan for emergency preparedness. Hence, while the Department does not object to further extension of the war risk programs for shipping and aircraft, any such extension, we believe, should be subject to the condition that, in the event of a general war involving a significant nuclear attack upon the United States, benefits under these programs will be payable only to the extent that such payments are consistent with overall national emergency needs, available resources, and national policy on the equitable sharing of war losses.

The views of this Department on H.R. 4526 were submitted to the House Committee on Merchant Marine and Fisheries on April 26, 1965, and that committee in its report on the bill urged the Secretary of Commerce to consult with the Secretary of the Treasury with a view to determining the scope of war risk insurance coverage in the light of the problem discussed in the Treasury Department report which might arise in the event of a general war involving a nuclear attack on the United States. Moreover, in the House floor discussion of H.R. 4526 the hope was expressed that the Secretary of Commerce and the Secretary of the Treasury will confer and come up with appropriate language that ought to become a part of the insurance binder that is offered under this act. Also, as the Commerce Department testified on May 25 before your Subcommittee on Merchant Marine and Fisheries, discussions within the Government on this subject have begun. This Department is, of course, happy to cooperate with the Commerce Department and other interested Federal agencies in seeking an effective and equitable resolution of these problems.

The Department has been advised by the Bureau of the Budget that there is no objection from the standpoint of the administration's program to the submission of this report to your committee.

Sincerely yours,

FRED B. SMITH, *Acting General Counsel.*

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, D.C., May 26, 1965.

HON. WARREN G. MAGNUSON,
Chairman, Committee on Commerce,
U.S. Senate.

DEAR MR. CHAIRMAN: Your letter of May 19, 1965, requests our views on H.R. 4526, a bill which would extend the provisions of title XII of the Merchant Marine Act, 1936, relating to war risk insurance, for an additional 5 years, ending September 7, 1970.

The extension of the provisions of title XII of the Merchant Marine Act, 1936, for an additional 5 years involves a matter of policy for determination by the Congress and, therefore, we have no recommendations to make concerning its enactment.

Sincerely yours,

JOSEPH CAMPBELL,
Comptroller General of the United States.

FEDERAL MARITIME COMMISSION,
OFFICE OF THE CHAIRMAN,
May 26, 1965.

HON. WARREN G. MAGNUSON,
Chairman, Committee on Commerce,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This is in reply to your request of May 19, 1965, for the views of the Federal Maritime Commission with respect to H.R. 4526, a bill to extend the provisions of title XII of the Merchant Marine Act, 1936, relating to war risk insurance, for an additional 5 years, ending September 7, 1970.

Inasmuch as the bill does not affect the responsibilities or jurisdiction of the Commission, we express no views as to its enactment.

The Bureau of the Budget has advised that there would be no objection to the submission of this letter from the standpoint of the administration's program.

Sincerely yours,

JOHN HARLEE,
Rear Admiral, U.S. Navy (Retired), Chairman.

U.S. DEPARTMENT OF JUSTICE,
OFFICE OF THE DEPUTY ATTORNEY GENERAL,
Washington, D.C., June 28, 1965.

HON. WARREN G. MAGNUSON,
Chairman, Committee on Commerce,
U.S. Senate, Washington, D.C.

DEAR SENATOR: This is in response to your request for the views of this Department on H.R. 4526, an act to extend the provisions of title XII of the Merchant Marine Act, 1936, relating to war risk insurance, for an additional 5 years, ending September 7, 1970.

The Secretary of Commerce, with the approval of the President, is presently authorized to provide war risk insurance and reinsurance against loss or damage whenever it appears to the Secretary that such insurance cannot be obtained on reasonable terms from insurance

companies in the United States (46 U.S.C. 1282, 1284). The present authorization will expire on September 7, 1965. This bill would provide for a 5-year extension.

The subject of this legislation does not come within the scope of the activities of this Department. Accordingly, we defer to the Department of Commerce which is directly concerned with such matters.

The Bureau of the Budget has advised that there is no objection to the submission of this report from the standpoint of the administration's program.

Sincerely,

RAMSEY CLARK,
Deputy Attorney General.

CHANGES IN EXISTING LAW

In compliance with subsection 4 of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, and existing law in which no change is proposed is shown in roman:)

SECTION 1214 OF TITLE XII, MERCHANT MARINE ACT, 1936 (46 U.S.C. 1294)

SEC. 1214. The authority of the Secretary to provide insurance and reinsurance under this title shall expire [15 years] *20 years* from the date of enactment of this title.

○



